

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TODD FULLER and
DEVON FULLER,

Plaintiffs,

v.

CASE NO. 07-13365
HON. LAWRENCE P. ZATKOFF

FENTON TOWNSHIP,

Defendant.

ORDER TO REMAND

Plaintiffs filed a Complaint in the Genesee County Circuit Court on July 13, 2007. Defendant removed the action to this Court on August 13, 2007, based on federal question jurisdiction under 28 U.S.C. § 1331 and supplemental jurisdiction under 28 U.S.C. § 1367. Plaintiffs' Complaint contains two counts: Count I alleges various violations of unidentified Michigan statutes; and Count II alleges violations of the Fifth Amendment's takings clause and the analogous clause under Michigan's Constitution. *See* Complaint.

The Court has subject matter jurisdiction over Count II to the extent that it is based the Fifth Amendment to the United States Constitution. *See* 28 U.S.C. § 1331. Count I and Count II to the extent it is brought pursuant to Michigan's Constitution, however, are based upon state law. Although the Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a), the Court may decline to exercise supplemental jurisdiction over a state law claim if there are "compelling reasons for declining jurisdiction." *See* 28 U.S.C. § 1367(c)(4). The Court declines to exercise supplemental jurisdiction over Plaintiffs' state law claims in this matter. The Court finds

that the contemporaneous presentation of Plaintiffs' parallel state claim for relief will result in the undue confusion of the jury. *See* 28 U.S.C. § 1367(c)(4); *see Padilla v. City of Saginaw*, 867 F. Supp. 1309, 1315 (E.D. Mich. 1994).

Accordingly, IT IS ORDERED that Plaintiffs' state law claim (Count I and Count II under Michigan's Constitution) are REMANDED to the Genesee County Circuit Court. The Court retains jurisdiction over Plaintiffs' federal claim (Count II under the Fifth Amendment takings clause).

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: September 5, 2007

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on September 5, 2007.

s/Marie E. Verlinde

Case Manager

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